

INITIAL STATEMENT OF REASONS/SUMMARY OF CHANGES

This action is necessitated by enactment of Senate Bill 737 (Chapter 10, Statutes of 2005). The statute creates the Department of Corrections and Rehabilitation (CDCR) out of a number of existing agencies, including the Youth and Adult Correctional Agency (YACA), and separate subordinate organizational entities including the California Department of Corrections (CDC), the Department of the Youth Authority (YA), the Board of Prison Terms (BPT) and a number of boards and commissions. Functionally, the component entities of YACA have been merged and reconciled. The former position of YACA secretary has been retained as the secretary/chief executive officer of CDCR.

For purposes of identifying and deterring economic and financial conflict of interest in governmental decision making, disclosure of the financial interests and assets of public officials has been required since enactment of the Political Reform Act in 1974. To this end, state agencies are required to adopt and put into force a "Conflict of Interest (COI) Code." Under such codes, individual agencies identify which positions in particular should report interests and assets and what should be disclosed. In addition, agencies that opt to incorporate by reference standard COI regulatory provisions separately published by the Fair Political Practices Commission create filing, reporting, gift and loan receipt, disqualification and abstention principles to back up their individual codes.

CDCR's creation has made obsolete four existing COI codes, which must be updated or replaced within six months of the July 1, 2005, effective date of SB 737. Because YACA is the "parent" body into which the subordinate units have been merged, the logical approach is to amend YACA's code (Title 15, California Code of Regulations, Section 7001) together with preserved and updated content relocated from the now abolished COIs for the BPT (Section 2005), CDC (Section 3416) and YA (Section 4020), while repealing the codes of the above named abolished entities.

Both structural and position changes mandated by SB 737 must be captured in the amendments to Section 7001. New titles named in the act are added. In addition to transferring the current listing of appropriate positions subject to the disclosure requirement from old COIs to the new, the titles of certain positions are being updated to match contemporary organizational structure. As importantly, however, listings are being reordered to better identify the positions affected, an innovation reflected in the superseded YA COI. This is because certain positions nearly universal to the Department (such as Staff Services Analysts/Associate Governmental Program Analysts/Staff Services Managers) have previously lacked specificity as to organizational placement (notably in the CDC COI). Logically, the intention is for only those which may be subject to a disqualifying conflict of interest—and not all individuals in such classifications—to be subject to the requirements of this rule.

Addressing this problem as well as reflecting the composite nature of the CDCR, positions appear under "divisional" headings, so as to better distinguish which employees are required to comply with the provisions of this regulation. In addition, consistent with new or relatively recent structural changes adopted by the constituent organizations since their COIs were last amended, certain positions have been dropped and others added. This is particularly evident within program, support, stand-alone offices, and institutional setting arenas. For the most part existing positions have been retained, new positions added and obsolete positions deleted or replaced with contemporary titles, as appropriate. Positions previously included in obsolete COI (such as the Inspector General) now reporting to another authority and not the CDCR, have not been transferred from older codes.

Changes are being made in disclosure categories (Appendix B). In order to eliminate redundancy and simplify process, the existing six categories of many of the superseded COI have been consolidated into three. This modification allows similar categories to be combined into fewer designations for greater efficiency in text and administrative effort on the part of the Department. Accordingly, the existing numerical designations of certain positions have been adjusted as required, while positions previously listed in the BPT, CDC, and YA codes have been assigned categories for the first time.

Finally, and of least significance, a number of additions and deletions to the narrative content of 7001 are desirable. Additional prologue wording in the first paragraph assists readers in understanding the purpose and intent of the rule in question. Textual additions and simplification of the remainder of the paragraph are intended to the same end. Changes in paragraph two are directed toward greater clarity in content. Readers should bear in mind that the rewording of the forward part of the paragraph permits deletions in the latter part. The deletions should not be interpreted as signifying a departmental intent to no longer make available or retain statements of certain employees, administrators, or board members. Finally, minor wording adjustments have been made in Appendix A and B for improved clarity, including: replacement of the word "employee" with "position" and addition of a heading where one had been previously omitted. These changes help make it clear that the rule applies to incumbent employees of a specified position, and not all employees sharing that particular classification or title.

The Department must determine that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective, and less burdensome to affected private persons, than the action proposed. Some changes are the result of ongoing internal audits of position duty statements against criteria for inclusion in the code. Otherwise, no technical, theoretical, or empirical study, report, or background document was relied upon in proposing these regulatory changes other than the enabling legislation as noted. Alternatives to the revisions and additions posed will be contemplated on the basis of public and Fair Political Practices Commission comment and review in accordance with the requirements of CCR Title 2, Section 18750.

The Department has determined that no reasonable alternatives to the regulations have been identified or brought to the attention of the Department that would lessen any adverse impact on small business.

The Department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the Department's initial determination.

The Department has determined that this action imposes no mandates on local agencies or school districts, or a mandate, which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4.

Section 7001 is amended with selective textual alterations in the introductory narrative contained in the initial paragraphs and with specific additions to Appendices A and B.

The chapter heading is amended to reflect the new title of the agency, while the Secretary, Undersecretary, and Consultant listing has been retained. The positions of Youthful Offender Parole Board Members, Board Hearing Representative, Board of Corrections Member Appointed by the Governor, and Field Representative have been deleted because these functions no longer exist or have been absorbed within other

bodies. On the other hand, the position of Deputy Secretary, Administrative Officer, and Executive Officer have been retained, but in different locales and with amended titles. With the exception of the position of staff counsel (under the Offices of the Department heading) all other listing additions are new in the matter described above.

A new double asterisk has been added to cover designee alternatives and ex-officio members of the boards and commissions named in SB 737. Individuals in these capacities already filing full disclosure statements forwarded to the FPPC will not be required to file repetitious statements.

Government Code and Penal Code references (which have been inadvertently omitted previously or are necessitated by the enactment of SB 737) have been added to the authority and reference note.

Section 2005 is repealed. The Board of Prison Terms has been replaced by the Board of Parole Hearings and the designated positions and categories incorporated in the amended provisions of 7001.

Section 3416 is repealed. The Department of Corrections has been replaced by the CDCR and the designated positions and categories incorporated in the amended provisions of 7001.

Section 4020 is repealed. The Department of Youth Authority has been replaced by the CDCR and the designated positions and categories incorporated in the amended provisions of 7001. The provisions of Government Code Section 11409(a), whereby the YA exercised the option of not publishing the COI in full in the CCR, have been repealed and therefore the practice is no longer available to agencies.